

IC 25-15-9

Chapter 9. State Board of Funeral and Cemetery Service;
Education Fund; Cemetery Registration

IC 25-15-9-1**Establishment of board**

Sec. 1. The state board of funeral and cemetery service is established.

As added by P.L.48-1991, SEC.31.

IC 25-15-9-2**Members; chairman**

Sec. 2. (a) The board consists of eleven (11) members as follows:

(1) Ten (10) members appointed by the governor for terms of four (4) years.

(2) The commissioner of the state department of health or the commissioner's designee.

(b) The board shall elect a chairman from the board's own membership every two (2) years to serve a term of two (2) years. The chairman shall be elected alternately from those board members appointed under sections 3 and 4 of this chapter.

As added by P.L.48-1991, SEC.31. Amended by P.L.2-1992, SEC.767; P.L.236-1995, SEC.45.

IC 25-15-9-3**Funeral directors; members**

Sec. 3. Four (4) of the board's appointed members must be licensed funeral directors, in good standing, without any association with a school of mortuary science other than as a preceptor or supervisor of a funeral service intern.

As added by P.L.48-1991, SEC.31.

IC 25-15-9-4**Cemetery owners or managers; members**

Sec. 4. Four (4) of the board's appointed members must be active in the cemetery industry in Indiana, either as an owner or a manager of an operating cemetery property.

As added by P.L.48-1991, SEC.31.

IC 25-15-9-5**Consumers; members**

Sec. 5. Two (2) of the board's appointed members must be residents of Indiana who are not associated with the practice of funeral service or a cemetery operation other than as consumers.

As added by P.L.48-1991, SEC.31.

IC 25-15-9-6

Party affiliation; members

Sec. 6. Not more than five (5) of the board's appointed members may be affiliated with the same political party.

As added by P.L.48-1991, SEC.31.

IC 25-15-9-7

Number of terms; limitation

Sec. 7. The board's appointed members may serve only two (2) terms on the board, including prior service either as a member of the state board of funeral service or the state board of embalmers and funeral directors. A member of the board may serve until the member's successor is appointed and qualified under this chapter.

As added by P.L.48-1991, SEC.31. Amended by P.L.194-2005, SEC.58.

IC 25-15-9-8

Sale and payment of funeral or burial expenses; duties of board

Sec. 8. The board shall do the following:

- (1) Adopt rules under IC 4-22-2 to do the following:
 - (A) Establish standards for the sale and payment of funeral or burial services or merchandise in advance of need.
 - (B) Establish the terms of contracts authorized under IC 30-2-13.
 - (C) Implement IC 30-2-13.
- (2) Register and issue certificates to sellers of merchandise or services under IC 30-2-13.
- (3) Determine compliance with this article by persons engaged in the sale and payment of funeral or burial services or merchandise in advance of need under IC 30-2-13.
- (4) Investigate any complaint alleging a violation of IC 30-2-13.
- (5) Set fees under IC 25-1-8.
- (6) For a violation of this article or IC 30-2-13 by a person engaged in the sale and payment of funeral or burial services or merchandise in advance of need under IC 30-2-13, if necessary, take any combination of the following actions:
 - (A) Issue an appropriate order to correct the violation.
 - (B) Suspend the seller's certificate of authority.
 - (C) Permanently revoke the seller's certificate of authority.
 - (D) Censure the seller.
 - (E) Issue a letter of reprimand to the seller.
 - (F) Place the seller on probation.
 - (G) Assess a civil penalty against the seller in an amount not to exceed one thousand dollars (\$1,000) for each violation, except for a finding of incompetency due to a physical or

mental disability. When imposing a civil penalty, the board shall consider the seller's ability to pay the amount assessed. If the seller fails to pay the civil penalty within the time specified by the board, the board may suspend the seller's certificate of authority without additional proceedings. However, a suspension may not be imposed if the sole basis for the suspension is the seller's inability to pay a civil penalty.

(H) Refer the matter to the attorney general or prosecuting attorney for enforcement.

(7) In addition to any actions taken under subdivision (6), permanently revoke a seller's certificate of authority, if the seller demonstrates a pattern or practice of violating the following provisions:

(A) The requirement under IC 30-2-13-12 that all property paid or delivered to fund a contract for prepaid services or merchandise be irrevocably deposited to trust or escrow thirty (30) days after the contract is signed.

(B) The prohibition against knowingly inducing a purchaser to breach an existing contract under IC 30-2-13-13(e).

As added by P.L.48-1991, SEC.31. Amended by P.L.207-1993, SEC.21; P.L.241-1995, SEC.1.

IC 25-15-9-9

Funeral homes; standards for operation; duties of department

Sec. 9. The funeral director, consumer, and the state department of health members of the board shall do the following:

(1) Adopt rules under IC 4-22-2 to do the following:

(A) Establish standards for the competent practice of funeral service.

(B) Establish sanitation standards for the construction and equipping of funeral homes.

(C) Establish standards for the operation of funeral homes.

(D) Set fees under IC 25-1-8.

(E) Carry out this article.

(2) Establish a program of inspection to administer this article.

(3) Pass upon the qualifications of each applicant for a license under this article.

(4) Provide all examinations under this article.

(5) License all applicants who meet the requirements of IC 25-15-4.

(6) Investigate a complaint alleging a violation of this article.

(7) For a violation of this article by a person who is licensed under this article, if necessary, take any combination of the following actions:

- (A) Issue an appropriate order to correct the violation.
 - (B) Suspend the seller's certificate of authority issued under IC 30-2-13.
 - (C) Permanently revoke the licensee's license.
 - (D) Censure the licensee.
 - (E) Issue a letter of reprimand.
 - (F) Place the licensee on probation.
 - (G) Assess a civil penalty against the licensee in an amount not to exceed one thousand dollars (\$1,000) for each violation, except for a finding of incompetency due to a physical or mental disability. When imposing a civil penalty, the board shall consider a licensee's ability to pay the amount assessed. If the licensee fails to pay the civil penalty within the time specified by the board, the board may suspend the licensee's license without additional proceedings. However, a suspension may not be imposed if the sole basis for the suspension is the licensee's inability to pay a civil penalty.
 - (H) Refer the matter to the attorney general or the prosecuting attorney for enforcement.
- (8) The board shall suspend the license of a funeral home licensee who employs a person who:
- (A) holds an inactive funeral director license (as described in IC 25-15-4-6); and
 - (B) engages in the practice of funeral services or provides funeral services to the public (as described in IC 25-15-2-17 or IC 25-15-2-22).

As added by P.L.48-1991, SEC.31. Amended by P.L.2-1992, SEC.768; P.L.207-1993, SEC.22.

IC 25-15-9-10

Cemeteries; operation; duties of department

Sec. 10. The cemetery, consumer, and the state department of health members of the board shall do the following:

- (1) Determine compliance with IC 23-14 by cemetery owners.
- (2) Investigate a complaint alleging a violation of IC 23-14.
- (3) For a violation of IC 23-14 by a cemetery owner, if necessary, take any combination of the following actions:
 - (A) Issue an appropriate order to correct the violation.
 - (B) Suspend the seller's certificate of authority issued under IC 30-2-13.
 - (C) Censure the cemetery owner.
 - (D) Issue a letter of reprimand.
 - (E) Assess a civil penalty against the cemetery owner in an amount not to exceed one thousand dollars (\$1,000) for each

violation, except for a finding of incompetency due to a physical or mental disability. When imposing a civil penalty, the board shall consider a cemetery owner's ability to pay the amount assessed.

(F) Refer the matter to the attorney general or prosecuting attorney for enforcement.

As added by P.L.48-1991, SEC.31. Amended by P.L.2-1992, SEC.769; P.L.207-1993, SEC.23.

IC 25-15-9-11

Official actions of board; voting

Sec. 11. An official action of the board is valid only if the action is adopted by at least six (6) of the board's members. However, cemetery members may not vote on any matter involving section 9 of this chapter, and funeral director members may not vote on any matter involving section 10 of this chapter. When either cemetery or funeral director members are ineligible to vote, an official action of the board is valid if the action is adopted by at least four (4) of the board's members.

As added by P.L.48-1991, SEC.31.

IC 25-15-9-12

Health officers; cooperation with department

Sec. 12. The state department of health and local health officers shall cooperate with the board to enforce the sanitation standards adopted by the board for funeral homes.

As added by P.L.48-1991, SEC.31. Amended by P.L.2-1992, SEC.770.

IC 25-15-9-13

Funeral service education fund

Sec. 13. (a) The funeral service education fund is established for the following purposes:

(1) To supplement the funding for a program of inspection administered by the funeral director, consumer, and state department of health members of the board under section 9 of this chapter.

(2) To fund educational projects of the funeral director, consumer, and state department of health members of the board directed toward funeral directors and embalmers.

(b) The fund shall be administered by the funeral director, consumer, and state department of health members of the board.

(c) The treasurer of state shall invest the money in the fund not currently needed to meet the obligations of the fund in the same manner as other public funds may be invested.

(d) Money in the fund at the end of a state fiscal year does not revert to the state general fund. If the amount of money in the fund at the close of a fiscal year exceeds forty thousand dollars (\$40,000), the treasurer of state shall transfer the excess from the fund into the state general fund.

As added by P.L.48-1991, SEC.31. Amended by P.L.2-1992, SEC.771.

IC 25-15-9-14

Fees and gifts; collection and distribution

Sec. 14. The Indiana professional licensing agency shall collect all fees required under this article and gifts received by the board and at the end of each month shall do the following:

- (1) Report amounts collected to the auditor of state.
- (2) Transfer amounts collected to the treasurer of state for deposit as follows:
 - (A) An amount established by the board and not exceeding five dollars (\$5) per license issued under this article in the funeral service education fund.
 - (B) Gifts dedicated to the funeral service education fund in that fund.
 - (C) The remainder, after deducting the amounts described in clause (A) or (B), in the state general fund.

As added by P.L.48-1991, SEC.31.

IC 25-15-9-15

Salary; reimbursement of expenses

Sec. 15. (a) Each member of the board who is not a state employee is entitled to the minimum salary per diem provided by IC 4-10-11-2.1(b). Such a member is also entitled to reimbursement for travel expenses and other expenses actually incurred in connection with the member's duties, as provided in the state travel policies and procedures established by the department of administration and approved by the budget agency.

(b) Each member of the board who is a state employee is entitled to reimbursement for travel expenses and other expenses actually incurred in connection with the member's duties, as provided in the state travel policies and procedures established by the department of administration and approved by the budget agency.

As added by P.L.48-1991, SEC.31.

IC 25-15-9-16

Payment of expenses

Sec. 16. All expenses incurred in the administration of this article shall be paid from the state general fund. However, expenses

approved by the funeral director, consumer, and state department of health members of the board for payment from the funeral service education fund shall be paid from that fund.

As added by P.L.48-1991, SEC.31. Amended by P.L.2-1992, SEC.772.

IC 25-15-9-17

Registration of cemeteries

Sec. 17. (a) Each cemetery that:

(1) qualifies for a certificate of authority as a seller under IC 30-2-13; or

(2) is subject to IC 23-14-48;

must register with the board.

(b) The cemetery, consumer, and state department of health members of the board shall impose a registration fee for each geographic location of a cemetery to which this section applies that is equal to the combined total of fees charged under IC 25-15 for one (1) funeral home license and one (1) individual funeral director's license.

As added by P.L.48-1991, SEC.31. Amended by P.L.2-1992, SEC.773; P.L.52-1997, SEC.51.

IC 25-15-9-18

Priority of persons determining final disposition and interment of human remains

Sec. 18. The following persons, in the order of priority indicated, have the authority to designate the manner, type, and selection of the final disposition and interment of human remains:

(1) The decedent's surviving spouse.

(2) The decedent's surviving adult child or children. However, if the children cannot agree on the manner of final disposition, the personal representative of the decedent's estate.

(3) The decedent's surviving parents.

(4) The personal representative of the decedent's estate.

As added by P.L.237-1995, SEC.17.